

## **State Planning Office**

### **Chapter 20: Qualifications for persons eligible to prepare comprehensive economic impact studies**

#### ***Basis Statement and Response to Public Comment***

#### **Purpose of the Rule**

This rule sets out the qualifications for persons eligible to prepare comprehensive economic impact studies for large-scale development under Maine's Informed Growth Act. The Office will use this rule to develop a list of qualified preparers from which municipalities may choose when implementing Maine's Informed Growth Act. The Office will provide the list to municipalities and land use permit applicants upon request. The promulgation of this rule is authorized under 30-A MRSA § 4367 (1).

#### **Rule Development**

Based on the Act's substantive requirements for the content of a comprehensive economic impact study (30-A MRSA §4367 (4)), the Office identifies the education, training, and experience needed by a consultant to be included on the Office's list of qualified preparers.

The proposed rule was filed with the Secretary of State on August 14, 2007, 2007. On August 22, 2007, pursuant to the APA rule-making process, notice of the proposed rule, hearing date, and comment deadline were published in the *Kennebec Journal*, *Lewiston Sun Journal*, *Bangor Daily News*, and *Portland Press Herald*. On the same date, the Office posted the proposed rule, hearing date, and comment period to its Web site and, by e-mail, notified an 87-person list of interested persons list and those requesting rule-making notice.

The Office also notified the following statewide groups and trade associations:

Maine Association of Planners  
Maine Municipal Association  
GrowSmart Maine  
Maine Real Estate Developers Association  
Maine State Chamber  
Maine Association of Realtors  
Maine Merchants Association  
Institute for Local Self Reliance

The public hearing notice was also listed in the *MaineBiz* (a statewide business news publication) web event calendar.

The hearing was held on September 12, 2007 in Augusta. Approximately 12 people attended the public hearing. Two people testified in opposition of Chapter 20. Five spoke neither for nor against it. The Office established a 10-day comment period following the public hearing. Six people sent written comments. These comments sought clarification or suggested changes to the rule.

## **Response to Public Comment**

Summarized below are comments received before the September 24, 2007, comment deadline. Each comment is followed by the Office response. The rule section numbers cited are those used in the adopted rule.

**1. Comment:** General. One commenter opposed the rule because it sanctions a bad piece of legislation and eliminates fair competition. It creates a legal quagmire. It is not needed since Maine municipalities already have the tools to direct and control retail growth. The law furthers the perception that Maine is anti-business and anti-development. *Jim McGregor, Maine Merchants Association*

***Response:** The State Planning Office thanks Mr. McGregor for his comment. The Legislature enacted the Informed Growth Act and the Office is carrying out its responsibilities under the law.*

**2. Comment:** General. One commenter opposed the rule because of a lack of clarity in the law about how the economic impact studies will be conducted. The law does not clearly define the measurements and parameters of the study, the back-up documentation required, and how the determination of negative impact will be made. *Roger Pomerleau, past president and current treasurer, Maine Merchants Association*

***Response:** The Act says that the municipal reviewing authority shall issue a finding of undue adverse impact or no undue adverse impact (30-A MRSA §4369), so that is a municipal decision. The State Planning Office thanks Mr. Pomerleau for his comments. The Legislature enacted the Informed Growth Act and the Office is carrying out its responsibilities under the law.*

**3. Comment:** General. The proposed rule ought to make specific reference to regional councils, as defined in 30-A MRSA §2301, as being qualified to conduct such impact studies. Regional councils are given the power to study economic conditions and regional development in 30-A MRSA §§2313 and 2342. *Eric Galant, Mid-Coast Regional Planning Commission*

***Response:** The State Planning Office recognizes the statutory role of regional councils in studying economic conditions and regional development. The councils have developed numerous economic plans and studies for their member municipalities over the years. The Office crafted the rule's definition of consultant specifically so that regional councils could apply. The Office does not believe, however, that regional councils should be automatically pre-qualified based on their statutory powers for two reasons: 1) it is not clear that, just because the regional councils have statutory*

*authority to conduct economic studies, that they would automatically have the individual staff with the requisite combination of education, training, and experience to conduct the specific study outlined in the Informed Growth Act; and 2) because the Informed Growth Act specifies that it is a “person” who must be qualified by the Office (see Comment 4), it is the individual within the regional council whose qualifications must meet the criteria to be included on the list of qualified preparers.*

**4. Comment:** Section 1.2(B) and 1.2(C), Definitions. Two comments addressed whether, under the Act, the Office is supposed to qualify the individual consultant or the consulting firm. One commenter believes the definitions “applicant” and “consultant” need further elaboration and clarification to ensure that the actual individual preparing the analysis has the requisite qualification, rather than the firm, organization, or institution, which is employing the individual. *Patricia Aho, Pierce Atwood Consulting, LLC*

A second commenter stated that the strength of consulting firms or academic institutions comes from the wide range of talent at the firm who work as a team to produce the best possible product. Each member of the team possesses unique and specific educational and experiential backgrounds valuable to the overall study. Limiting the definitions to an individual limits the number and types of qualified consultants for the list. *Richard Bates, Municipal Resources, Inc.*

**Response:** *The Informed Growth Act states, “A comprehensive economic impact study must be prepared by a person...” In reviewing this statutory language, it appears that the Act’s crafters envisioned that the individual (not the firm or organization) would be evaluated as to their qualifications to prepare comprehensive economic impact studies. The Office changed the definitions in the rule to clarify that the applicant and the consultant need to be the individual preparing the study, which is consistent with the Act.*

**5. Comment:** Section 1(C), Definitions, Consultant. Are state, regional, local, and university-based agencies eligible to be on the list? *Kevin Scribner, Planning Decisions*

**Response:** *Yes, it is the intent that state, regional, local, and university-based agencies be eligible to be consultants on the Office’s list of qualified preparers. In response to this comment, the Office clarified that public and government entities are included in the definition. The rule’s definition of “consultant” now reads, “Consultant means an individual or an individual authorized by his or her employing firm, company, corporation, nonprofit or public corporation, government entity, or academic organization doing business in the state of Maine.”*

**6. Comment:** Section 2.1, List of Qualified Preparers. In order to increase efficiency, provide more transparency, and ease administrative burden, we recommend that the list of qualified preparers simply be listed on the SPO website, rather than only upon request. *Patricia Aho, Pierce Atwood Consulting, LLC*

**Response:** *The State Planning Office intends to post the list of qualified preparers to its website to make it as accessible as possible. The Office does not want to limit itself to*

*only posting the list on the website. We want to leave other options open to us, such as mailing hard copies, for example, in the case of a small municipality that does not have easy Internet access.*

**7. Comment:** Section 2.1, List of Qualified Preparers. Language regarding fee amounts does not pertain to the establishment of a list of qualified preparers and should be moved to either Section 5 or to a separate section. *Patricia Aho, Pierce Atwood Consulting, LLC*

**Response:** *The State Planning Office moved this sentence to Section 5.*

**8. Comment:** Section 2.1, List of Qualified Preparers. This section indicates that SPO will create a new list of preparers every two years, however, in actuality, the list appears to be evergreen, with the ability for consultants to be added at any time. *Patricia Aho, Pierce Atwood Consulting, LLC*

**Response:** *The commenter is correct. The State Planning Office will have a rolling process to accept and evaluate qualifications from interested consultants. However, the Office intends to advertise biennially to widely solicit Requests for Proposals (RFQs) from any consultant that may not know about the opportunity to apply. The Office changed the language in the rule to clarify that it is not a new list that it creates every other year; rather it is the advertised public notice of the opportunity to submit a RFQ.*

**9. Comment:** Section 2.3, Selection Timeline. We recommend that the rule also contain a process for which preparers are removed from the qualification list, either by their own request, or for other reasons that SPO may wish to impose (for example, preparers who fail to complete studies, or preparers with numerous complaints from multiple parties for similar reasons). *Patricia Aho, Pierce Atwood Consulting, LLC*

**Response:** *The State Planning Office does not believe it has the statutory authority to remove a qualified person from its list. The law states that to be on the list, a person must be qualified by education, training, and experience. Performance and timeliness are not part of the statutory criteria that the Office is directed to consider. In fact, there is no statutory penalty for failure to produce a quality study or to complete the study on time.*

*The Office believes it addresses this concern, to the extent permitted by law, in two ways:*

- 1) For existing qualified preparers – by providing an avenue for municipalities and land use permit applicants to file and request copies of written complaints in Section 4 of the rule; and*
- 2) For preparers seeking qualification – by checking applicants' references as part of the Office's selection process.*

*The Office also added language at the end of Section 2.C as follows, "A qualified preparer may request at any time, in writing, to be removed from the list of qualified preparers."*

**10. Comment:** Section 3.1, Qualifications for Preparers. I generally support the adoption of the rule, but would like to see further clarification of how consultants are to “demonstrate” compliance with the criteria listed. *Ed Laverty, University of Maine*

**Response:** *To administer the rule, the Office will develop a Request for Qualifications (RFQ). The RFQ will describe the information and materials a consultant must submit to demonstrate the criteria. As part of the RFQ, the Office will ask each applicant to provide a narrative describing his or her education and experience. It will ask the applicant to describe previous related work. In addition, the Office will ask applicants to provide references and it may ask for samples of previous work and other information that will help it evaluate how well an applicant meets the criteria in Section 3.1. These detailed RFQ procedures are not included in the rule. The Office needs to have the flexibility to revise the submission information required in its RFQ without having to amend the rule each time an administrative change is needed.*

**11. Comment:** Section 3.1(1), Qualifications. Two commenters felt this section should be amended to be consistent with the statutory requirement that qualified preparers possess the necessary education, training, and experience to perform these studies (as opposed to “experience and/or educational background”). *Jeffrey Austin, Maine Municipal Association; and Joan M. Fortin, Esquire, Bernstein Shur Counselors at Law, representing Wal-Mart Stores, Inc.*

**Response:** *The State Planning Office amended Section 3.1(1) and 3.1(2) to address this concern (see response to comment #17).*

**12. Comment:** Section 3.1(1), Qualifications. Two commenters believe that there is not enough emphasis on the fundamental economics qualification needed to conduct a “comprehensive economic impact study. Both commenters felt that a person with an educational background in “community planning” and “community development” may not be qualified to make the detailed economic assessment required. One of the commenters suggested that the rule might instead allow some planners to become qualified preparers if they have an economics background. One of the commenters stated that someone with an experience or educational background in economic development and market research may not have the necessary qualifications either. One of the commenters suggested that persons with investment banking, finance, and commercial real estate backgrounds should be added. *Jeffrey Austin, Maine Municipal Association; and Joan M. Fortin, Esquire, Bernstein Shur Counselors at Law, representing Wal-Mart Stores, Inc.*

**Response:** *The State Planning Office believes that a background in other related fields, in addition to economics, may qualify a person to conduct economic impact studies. However, we agree that the ability to conduct the type of study envisioned in the law is the primary qualification. The Office amended 3.1(1) to require the consultant to have an educational background in economics or a related field and removed the detailed list of academic fields. The Office further amended Section 3.1 to clarify that for all three qualifications – education, training, and experience – a person would have to demonstrate the knowledge necessary to conduct these studies, including demonstrated*

*knowledge of the research principles, techniques, and data sources required (see response to comment #17).*

**13. Comment:** Section 3.1(2), Qualifications for Preparers. Two comments addressed the requirement to demonstrate “fiscal solvency.” One felt the requirement to be unclear. Another suggested that the requirement was intrusive and onerous and beyond the scope of the statutorily-required qualifications and asked that it be deleted. *Patricia Aho, Pierce Atwood Consulting, LLC; and Peggy McGehee, Institute for Local Self-Reliance*

**Response:** *The Office deleted the criterion regarding fiscal solvency (see response to comment #17).*

**14. Comment:** Section 3.1(3), Qualifications for Preparers. This qualification should read “...potential economic impacts...” You need to insert the word economic. You are not interested in the traffic impacts and so forth. The Legislature was clear that it’s economic. *Jeffrey Austin, Maine Municipal Association*

**Response:** *30-A MRSA § 4367(4)(A) and (4)(B) define the contents of an economic impact study. The Act requires the study to address, in addition to economic impact, the fiscal impacts of the proposed development on municipal services, including police, fire, sewer, and roads. So, yes, traffic impacts would need to be assessed. The Act also requires certain environmental impacts be identified, if existing studies and data are available. So, it is not solely economic impacts.*

**15. Comment:** Section 3.1(5), Qualifications for Preparers. We ask the Office to add two words, the words "local" and "retail," so the provision would state as follows: "Consultants on the Office's list of qualified preparers must...demonstrate knowledge of applied research principles and techniques as they relate to state and regional and local economic development and retail and other market analysis." *Peggy McGehee, Institute for Local Self-Reliance*

**Response:** *The Office made this change with the exception that it reads, “... retail or other market analyses” instead of “...retail and other market analysis” (see response to comment #17).*

**16. Comment:** Section 3.1(6) Qualifications for Preparers. Six commenters expressed concern about the bulleted list of potential data for which qualified preparers would need to know the source. Commenters felt the list was inconsistent with the Act, focused on the negative aspects of economic growth, would be difficult to measure, and added additional factors to the eleven economic factors set forth in the Act. *Patricia Aho, Pierce Atwood Consulting, LLC; Carol Weston, Senate Republican Leader; Richard Rosen, Assistant Senate Republican Leader; Jeffrey Austin, Maine Municipal Association; and Peggy McGehee, Institute for Local Self-Reliance; and Joan M. Fortin, Esquire, Bernstein Shur Counselors at Law, representing Wal-Mart Stores, Inc.*

**Response:** *The Office removed this bulleted list. The list was intended to provide examples of the types of data a consultant might need to find in order to conduct the*

study described in 30-A MRSA 4367(4)(A), with the actual qualification being whether the consultant knows the data and data sources necessary to prepare one of these studies. The Office also changed the criteria to clarify that the consultant is to be neutral on whether potential impacts are positive or negative. The Office changed what was previously criterion 3.1(6) and now is criterion 3.1(4) to read, “demonstrate knowledge of the data and data sources necessary to identify the potential costs and benefits of a large-scale retail establishment” (see response to comment #17).

**17. Comment:** Section 3.1(5) and 3.1(6), Qualifications. Section 3.1(5), Section 3.1(6) should be eliminated as a stand-alone topic and instead incorporated into the educational and research project qualifications. I redrafted Section 3.1 in a way that incorporates my suggestions. *Jeffrey Austin, Maine Municipal Association*

### Proposed re-draft of Section 3.1

Consultants on the Office’s list of qualified preparers must:

1. have an educational background in economics, economic development, investment banking, finance, commercial real estate development, or market research. The applicant’s education should demonstrate knowledge of applied research principles and techniques as they relate to state and regional economic development and market analysis as well as knowledge of the data sources necessary to identify the potential impacts of a large-scale retail establishment, include sources that measure the impacts on the comprehensive economic impact study areas as listed in 30-A MRSA §4347(4)(A);
2. demonstrate fiscal solvency;
3. provide examples of three previous research projects that demonstrate the applicant’s ability to assess the potential impacts of a large-scale retail establishment. These projects should demonstrate knowledge of applied research principles and techniques as they relate to state and regional economic development and market analysis as well as knowledge of the data sources necessary to identify the potential impacts of a large-scale retail establishment, include sources that measure the impacts on the comprehensive economic impact study areas as listed in 30-A MRSA §4347(4)(A);
4. provide three references of individuals who are familiar with the applicant’s work on the projects in Section 3.1(3);
5. and
6. ;

**Deleted:** demonstrate five (5) years experience and/or

**Deleted:** community development, community planning,

**Deleted:** demonstrate knowledge of applied research principles and techniques as they relate to state and regional economic development and market analysis;

**Deleted:** demonstrate knowledge of the data sources necessary to identify the potential impacts of a large-scale retail establishment, including sources that measure

**Deleted:** <#>Changes in community demographics¶  
<#>Results of retail/service and housing market analyses¶  
<#>Demand for and cost of public services¶  
<#>Changes in employment and income levels¶  
Changes in aesthetic quality of the community

**Response:** In response to comments 11-17, the Office amended Section 3.1 as follows:

Consultants on the Office's list of qualified preparers must:

1. have an educational background in economics or a related field; and
2. demonstrate experience and training in assessing the potential impacts of a large-scale retail establishment.

The applicant's education, experience, and training should:

3. demonstrate knowledge of applied research principles and techniques as they relate to state, local, and regional economic development and retail or other market analyses; and
4. demonstrate knowledge of the data and data sources necessary to identify the potential costs and benefits of a large-scale retail establishment.

The applicant shall also provide a minimum of three references of individuals who are familiar with the applicant's work on similar projects and other information as requested to assist the Office with evaluating the applicants' qualifications.

**18. Comment:** Section 3.2, Scoring. We are concerned that this section seems to call for the Office to rank pre-qualified consultants. We feel that the process should simply determine qualifications without attempting to rank people and firms on the list. *Kevin Scribner, Planning Decisions*

**Response:** *The Office will not rank-order proposals. However, in order to carry out a fair and effective evaluation of consultant's qualifications and to comply with state purchasing requirements, the State Planning Office must score an individual's qualifications against the defined criteria. The Office does not intend to post the results of its scoring, although this information is public and the Office must provide if it is requested.*

**19. Comment:** Section 3.2, Scoring. We recommend that this subsection contain further elaboration regarding the weighted scoring formula the Office will use. It is unclear how the Office will develop the scoring system, which factors (education, training, experience) will receive greater rating, and which of the criteria listed in the rule will have greater weight than the other listed criteria. The Act does not talk about a weighted scoring system. *Patricia Aho, Pierce Atwood Consulting, LLC*

**Response:** *The State Planning Office removed the reference to a weighted scoring system. Typically in a Request for Proposals (RFP) process, the soliciting agency develops scoring criteria to evaluate proposals. These often include, in addition to qualifications, other factors such as the bidder's cost, methodology or approach, turn around time, staffing capacity to complete the project, etc. Often qualifications are weighted more heavily than these other factors. The Office realizes that it does not have*



*the authority to include these other considerations that impact project deliverables. The statute directs us to look only at qualifications and to deliver to the municipality and land use permit applicant a list of consultants with the requisite qualifications. A municipality, in selecting a consultant from the Office's list of qualified preparers, may want to identify other factors important to the completion of the study, and determine which of the consultant's on the Office's list can best accomplish them.*

**20. Comment:** Section 3.2, Scoring. How will appeals of the scoring decisions be accomplished?  
*Patricia Aho, Pierce Atwood Consulting, LLC*

**Response:** *The Office added an appeals provision to the rule in Section 7 that reads:*

Applicants submitting qualifications in accordance with Section 2 who are not placed on the Office's list of qualified preparers may appeal a qualification decision. An aggrieved person may request a review of the qualification decision from the Director of the State Planning Office in writing within 15 days of notification of the qualification decision.

The Director may delegate the appeal to another senior staff person who was not involved in the original evaluation decision.

In considering an appeal, the Director shall:

1. examine the applicants qualifications submission against the criteria in Section 3.1; and
2. determine whether the Office followed the required process and reasonably interpreted the facts to reach the conclusion upon which the evaluation decision under appeal was based.

Within 45 days of the request for review, the Director shall make a decision and notify the aggrieved party in writing whether the applicant is to be placed on the Office's list of qualified preparers. The decision of the Director constitutes final agency action.

**21. Comment:** Section 3.2, Scoring. Two commenters asked about SPO internal process for evaluating consultants against the criteria. Who will undertake the evaluation process within the Office? SPO should include other organizations in the development of the scoring criteria and the review of applications. Some of those other organizations may include the University System (particularly the graduate program in economics), a real estate developers' association, a retailers' association, or a bankers' association. These kinds of groups probably have more experience with economic impact analyses than does SPO and could help you in your review.  
*Patricia Aho, Pierce Atwood Consulting, LLC and Jeffrey Austin, Maine Municipal Association*

**Response:** *A team of qualified staff within the State Planning Office will undertake the review, although the specific individuals within the Office may change over time. The administrative procedures that the Office will use to administer the rule are not included as part of the rule. The Office needs to have the flexibility to change the way it deploys its human resources without having to amend the rule.*

*The statute directs SPO to determine the list of qualified consultants. The Office believes it has the expertise on staff to evaluate consultants' qualifications. Relying on in-house staff also allows for greater efficiency to conduct the rolling evaluations spelled out in Section 2.3(2).*

**22. Comment:** Section 4, Complaints. This section should be revised to add accountability for the statutory requirement that a comprehensive economic impact study must be completed within four months, and to allow SPO, to, when appropriate, remove a consultant from the list of qualified preparers. Specifically the rule should include a periodic review of any complaints filed against a qualified preparer, with a potential result for legitimate complaints being that a consultant could be removed from the list of qualified preparers, in which case a municipality could not be reimbursed by the SPO for using that consultant once the consultant is removed from the list. The Act requires an economic impact study to be completed within four months but fails to provide any enforcement mechanism. In the event that a qualified preparer routinely misses the four-month deadline, that consultant should be removed from the approved list of qualified preparers. Similarly, a consultant that has demonstrated a clear bias (for or against large-scale, retail development) should not be allowed to remain on the list of qualified preparers. *Joan M. Fortin, Esquire, Bernstein Shur Counselors at Law, representing Wal-Mart Stores, Inc.; and Patricia Aho, Pierce Atwood Consulting, LLC*

**Response:** *The State Planning Office does not believe it has the statutory authority to remove a consultant from its list of qualified preparers for any reason other than they are not qualified (see comment 9). Similarly, the Act does not permit SPO to evaluate bias as part of a consultant's qualifications. The Office believes that language in the rule regarding a complaint process (Section 4), providing references (Section 3.1), and disclosure of relationships (Section 6) addresses the concerns about timeliness and bias to the extent permitted by law.*

*Further, the Act is clear that payment of the study to municipalities is automatic. The Act does not give the Office authority to withhold the fee from the municipality for any reason.*

**23. Comment:** Section 5, Payment of Study Fee. Two commenters addressed the requirement for a memorandum of agreement with the municipalities for payment of the study fee. One said that administrative checks are OK, but they should be kept simple. Another requested the Office delete the requirement in order for the Act be as user-friendly as possible. As the distribution of the funds is not discretionary (the Act does not require the municipalities to explain their reasoning, methodology or process to the Office or even to produce an agreement with a consultant, in order to be entitled to obtain funds), the Office's role should be limited to the ministerial act of disbursing the funds upon the municipality's written request, without more. *Peggy McGehee, Institute for Local Self-Reliance and Jeffrey Austin, Maine Municipal Association*

**Response:** *The State Planning Office added the phrase, "in accordance with generally accepted accounting practices" to the first sentence in Section 5 to clarify its intent. It is not the Office's intent to evaluate municipal decisions, rather the memorandum of*

*agreement is needed to document accounting transactions. State accounting standards and internal control measures dictate source documents for any payment made by the state. The source document provides auditors a paper trail so that they can audit the Office's expenditures and ensure that it complies with federal and state financial and program requirements. The Office understands the need for simplicity and ease of administration and will work to ensure that the memorandum of understanding that it develops poses as little administrative burden on the municipality as possible.*

**24. Comment:** Section 5, Payment of Fee. This section refers to a “memorandum of agreement” between a municipality and the Office regarding payment terms. Two commenters suggested that a standardized set of policies that describes payment terms should be included in the rule. Since any unexpended funds from the \$40,000 fee is to be returned to the applicant and because the preparer is paid from the fee, the payment policies by the Office should be contained in a policy document that is available for municipalities, qualified preparers, and applicants. This will help all three parties to understand the payment structure, the time-line for the payments, and the necessary documentation needed to receive payments. Rather than through individual memoranda of agreement, an overall policy should be established by the office and attached to the rule. *Patricia Aho, Pierce Atwood Consulting, LLC and Jeffrey Austin, Maine Municipal Association*

**Response:** *Policies, memoranda, forms, instructions, or explanatory statements of policy that concern the internal management of an agency and that are not judicially enforceable are not intended to be included in an agency rule. The State Planning Office does not believe it is appropriate for the administrative procedures that describe these payment terms to be part of its rule. These procedures are likely to change as state accounting practices are improved, particularly at this time, as the state is moving to new web-based accounting software.*

**25. Comment:** Section 6, Disclosure of Relationships. Three commenters said that the relationships that must be disclosed in Section 6 were unclear or did not go far enough. Is there a “grace period” of ineligibility between such employment and inclusion on the list? Is a firm or staff member of a firm who has previously been a lobbyist for or employed by a big-box developer or an opponent of big-box developers eligible to be on the list? This section should contain stronger language, such as, “Any party having or seeking standing before a committee.” It should be expanded to include current or recently concluded relationships between the qualified preparer and potential opponents of the applicant such as abutters, market competitors, and other organizations and their agents (lawyers, etc.). It should be expanded to include a qualified preparer that has any affiliation or relationship with project opponents or with groups or individuals who actively oppose large-scale retail development in Maine and elsewhere. *Jeffrey Austin, Maine Municipal Association; and Kevin Scribner, Planning Decisions; and Joan M. Fortin, Esquire, Bernstein Shur Counselors at Law, representing Wal-Mart Stores, Inc.*

**Response:** *The State Planning Office amended Section 6 to clarify and broaden the disclosure requirements. The Office also realized that the proposed rule was not clear as to whom the relationship was to be disclosed. The rule now reads: “A consultant selected from the Office’s list of qualified preparers for a particular study project shall*

disclose to the municipal reviewing authority and land use permit applicant any current or recently-concluded relationship (within in the past three years) between the qualified preparer and any member of that project's municipal reviewing authority or potential opponents or proponents of the land use permit applicant for that particular study."